

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

2012 DEC 10 PM 12:08

EDWARD S. FLUME and  
MARTHA S. FLUME

Petitioners,

VS.

UNITED STATES: INTERNAL  
REVENUE SERVICE

Respondent.

www.ck12.org

§ A12CA1154 H  
§ CIVIL ACTION NO. \_\_\_\_\_

# PETITION TO QUASH IRS SUMMONS

Comes now Petitioners, Edward S. Flume and Martha S. Flume (Flume) by and through his undersigned counsel, and moves this Honorable Court to quash eight (8) administrative summonses issued by Raphaele Johnson, Internal Revenue Service, Revenue Agent, to the following entities: Fidelity Investments; BBVA Compass Bank formerly Laredo National Bank; American Express Establishment Services; Discover Business Services; Scottrade; Wells Fargo Bank; Capital One Bank (USA); Capital One Bank NA. As grounds for this motion, Flume states as follows:

## JURISDICTION

The Court has jurisdiction of this action pursuant to 26 U.S.C. § 7609(h) and 28 U.S.C. § 1331.

### **ARGUMENT**

As the taxpayer under investigation, Petitioners Flume are entitled to file this Petition to Quash to assert their rights with respect to the attached summonses.

Petitioners Flume seek to quash the summonses by asserting objections to the summonses with respect to the documents sought.

According to law, Petitioner, a person entitled to Notice of the Summons under IRC 7609(a), has the right to begin these proceedings to quash such summons not later than the 20<sup>th</sup> day after the day such notice is given, and should mail within 20 days from the date of Notice at the address shown on the summons by registered or certified mail a copy of this petition to (A) the third-party record keeper who received the summons and (B) to the IRS Officer before whom the summoned person is to appear at the address shown on the summons.

The Court should quash said summonses for the following reasons:

- (1) The records sought by the summonses relate to the Petitioners are their personal records.
- (2) The information in the possession of the Respondent's third party is of a private nature and was not intended to be given to parties not authorized by Petitioner. Furnishing such personal and private information about Petitioner to the IRS or any other governmental body without Petitioner's consent is a violation of his person, his privacy, his Constitutional rights, and his natural rights, which must be protected by the government.
- (3) The IRS summons are not issued in good faith as the information sought by the individual summonses is too broad, too sweeping in detail, to be used by the IRS only to prove the actual existence of a valid civil tax determination or for a collection purpose.
- (4) The summonses were not issued in good faith, nor conducted pursuant to a legitimate purpose, not relevant to any lawful purpose. The information is already within the commissioner's possession: the required administrative steps have not been followed, the summons is an abuse of the administrative process and issued for the improper purpose of harassing and pressing the Petitioners.

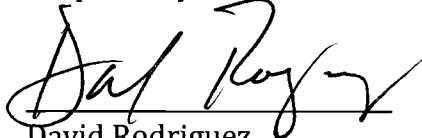
**RELIEF REQUESTED**

Petitioners Flume respectfully request an order:

1. Quashing the IRS Summons addressed to third parties and attached as Exhibits A through H.
2. Alternatively, schedule an evidentiary hearing to determine the legitimacy of the Summons, and
3. Temporarily and preliminary enjoining and prohibiting the IRS from enforcing the Summons, by directing the IRS to notify the Banks not to comply with the summons and not to send the summoned information, until the underlying questions before the Court are fully determined, and
4. Granting such other further relief that to the Court may seem just and proper.

Wherefore, Petitioners Flume pray that this Court grant their motion to quash the summonses issued to various financial institutions found in Exhibits A through F attached hereto, based upon the objections stated above.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Rodriguez", with a stylized flourish at the end.

David Rodriguez  
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Counsel for Petitioners

**CERTIFICATE OF SERVICE**

I hereby certify that the on the 10<sup>th</sup> day of December 2012, I electronically filed the foregoing Petition to Quash IRS Summons with the Clerk of the Court using the CM/ECF system and have sent notification of such filing to the to the non-ECF participants via served U.S. certified mail as follows:

Internal Revenue Service  
Attn: Raphaelle Johnson  
12309 N Mopac Expy Ste 200  
4309AUNW  
Austin, Texas 78758

Fidelity Investments: Attn: Risk Operations  
100 Crosby Parkway, MZ KC1D  
Covington, Ky 41015-0031

BBVA Compass Bank  
701 32<sup>nd</sup> St South  
Birmingham, AL 35233

American Express Establishment Services Attn: Legal Hold  
P.O. Box 53825  
Phoenix, AZ 85072

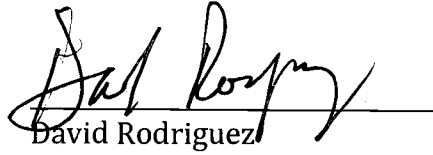
Discover Business Service Attn: Carrie Beck Legal Department  
P.O. Box 3012  
New Albany, OH 43054

Scottrade Attn: Legal Department  
12800 Corporate Hill Drive  
St. Louis, MO 63131

Wells Fargo, NA Attn: Legal Order Processing Center East  
401 Market St, Mail Code Y1372-110  
Philadelphia, PA 19101

Capital One (USA), NA Attn:  
Attn: 12070-7000 Subpoena Processing  
1500 Capital One Drive  
Richmond, VA 23238-1119

Capital One Bank, NA  
Attn: 12070-7000 Subpoena Processing  
15000 Capital One Drive  
Richmond, VA 23238-1119



David Rodriguez